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availability of treatment facilities for the article.

(c) No person shall remove any restricted article from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector that the restricted article has satisfied all requirements under this subpart.

[57 FR 43144, Sept. 18, 1992, as amended at 76 FR 31208, May 27, 2011]

§ 319.37-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

Bulb. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

Clean well water. Well water that does not contain quarantine pests.

Controlled import permit. A written or electronically transmitted authorization issued by APHIS for the importation into the United States of otherwise prohibited or restricted plant material for experimental, therapeutic, or developmental purposes, under controlled conditions as prescribed by the Administrator in accordance with § 319.6.

Disease. The term in addition to its common meaning, includes a disease agent which incites a disease.

Earth. The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

Europe. The continent of Europe, the British Isles, Iceland, the Azores, and the islands in the Mediterranean Sea.

From. An article is considered to be “from” any country or locality in

which it was grown. *Provided,* That an article imported into Canada from another country or locality shall be considered as being solely from Canada if it meets the following conditions:

(a) It is imported into the United States directly from Canada after having been grown for at least 1 year in Canada,

(b) It has never been grown in a country from which it would be a prohibited article or grown in a country other than Canada from which it would be subject to conditions of § 319.37-5 (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) of this subpart, or subject to conditions of § 319.37-6 of this subpart,

(c) It was not grown in a country or locality from which it would be subject to conditions of § 319.37-7 of this subpart unless it was grown in Canada under postentry growing conditions equivalent to those specified in § 319.37-7³ of this subpart, and

(d) It was not imported into Canada in growing media.

Indexing. A procedure for using plant material or its extracts to determine the presence or absence of one or more pests in or on the tested plant material. For the purposes of this subpart, indexing is performed in foreign countries to test the parent stock of designated articles that must meet special foreign inspection and certification requirements in accordance with § 319.37-5 to be eligible for importation into the United States. The results of indexing tests are used by the plant protection services of foreign countries to issue phytosanitary certificates declaring plant articles free of specified diseases. The following indexing procedures are authorized for use with the specified plant genera, if the procedures are performed using protocols acceptable to the plant protection service that issues phytosanitary certificates based on them: mechanical transmission of the pest to an indicator plant for *Dianthus*, *Malus*, *Prunus*, *Rubus*, and *Syringa*;

³Currently only *Chaenomoles* spp. (flowering quince), *Cydonia* spp. (quince), *Malus* spp. (apple, crabapple); *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) and *Pyrus* spp. (pear) are required under the laws of Canada to be grown in Canada under such equivalent conditions after importation.

graft transmission of the pest to an indicator plant for *Chaenomeles*, *Cydonia*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; serology for *Dianthus*, *Malus*, *Prunus*, *Pyrus*, *Rubus*, and *Syringa*; electron microscopy for *Dianthus* and *Prunus*, and nucleic acid probes for *Chaenomeles*, *Cydonia*, *Malus*, and *Pyrus*.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

Noxious weed. Any plant or plant product that can directly or indirectly injure or cause damage to crops (including plants for planting or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

Oceania. The islands of Micronesia, Melanesia, and Polynesia (except Hawaii, Guam, and the Northern Mariana Islands) in the central and southern Pacific Ocean.

Official control. The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests.

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

Phytosanitary certificate of inspection. A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from quarantine pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States, and which contains any specific

additional declarations required under this subpart.

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Plant pest. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of these articles.

Plant Protection and Quarantine Programs. The organizational unit with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act and related legislation, quarantines, and regulations.

Planting. Any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction, or propagation.

Plants for planting. Plants intended to remain planted, to be planted or replanted.

Port of first arrival. The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territory of the United States, and where inspection of articles is carried out by inspectors.

Potable water. Water which is approved for drinking purposes by the national or local health authority having jurisdiction.

Preclearance. Phytosanitary inspection and/or clearance in the country in which the articles were grown, performed by or under the regular supervision of APHIS.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove,

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field, greenhouse, screenhouse, or premises.

Prohibited article. Any plant for planting designated in § 319.37-2 (a) or (b), except wood articles regulated under §§ 319.40-1 through 319.40-11, “Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles.”

Quarantine pest. A plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

Regulated plant. A vascular or non-vascular plant. Vascular plants include gymnosperms, angiosperms, ferns, and fern allies. Gymnosperms include cycads, conifers, and ginkgo. Angiosperms include any flowering plant. Fern allies include club mosses, horsetails, whisk ferns, spike mosses, and quillworts. Nonvascular plants include mosses, liverworts, hornworts, and green algae.

Restricted article. Any plant for planting, excluding any prohibited articles listed in § 319.37-2(a) or (b) of this subpart, any articles whose importation is not authorized pending pest risk analysis under § 319.37-2a of this subpart, and excluding any articles regulated in §§ 319.8 through 319.28 or 319.41 through 319.74-4 of this part and any articles regulated in part 360 of this chapter.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

Soil. The loose surface material of the earth in which plants, trees, and shrubs grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

***Solanum* spp. true seed.** Seed produced by flowers of *Solanum* capable of germinating and producing new *Solanum* plants, as distinguished from *Solanum* tubers, whole or cut, that are referred to as *Solanum* seeds or seed potatoes.

Spp. (species). All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State Plant Regulatory Official. The official authorized by the State to sign agreements with Federal agencies involving operations of the State plant protection agency.

Taxon (taxa). Any grouping within botanical nomenclature, such as family, genus, species, or cultivar.

United States. All of the States.

[45 FR 31585, May 13, 1980, as amended at 50 FR 8706, Mar. 5, 1985; 56 FR 19790, Apr. 30, 1991; 57 FR 43145, Sept. 18, 1992; 58 FR 38267, July 16, 1993; 60 FR 3077, Jan. 13, 1995; 60 FR 27674, May 25, 1995; 63 FR 13484, Mar. 20, 1998; 66 FR 21055, Apr. 27, 2001; 69 FR 21946, Apr. 23, 2004; 69 FR 61586, Oct. 20, 2004; 72 FR 43517, Aug. 6, 2007; 76 FR 31208, May 27, 2011; 78 FR 25570, May 2, 2013]

§ 319.37-2 Prohibited articles.

(a) The following listed articles from the designated countries and localities are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in paragraph (c) of this section.

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Quarantine pests existing in the places named and capable of being transported with the prohibited article
<i>Abelmoschus</i> spp. (okra)	Africa	Cotton leaf curl agent.
	Brazil	Cotton Anthracnose agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
	Cote d'Ivoire, Nigeria	Okra mosaic virus.
	Iraq	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago	Okra mosaic agents.
<i>Abies</i> spp. (fir)	All except Canada	50 or more species of rusts including <i>Chrysomyxa abietis</i> (Wallr.) Ung. (a rust causing a serious needle disease); <i>Phaciopycnis pseudotsuga</i> (M. Wils.) Hahn (Douglas fir canker).
<i>Acacia</i> spp. (acacia)	Australia and Oceania	<i>Uromykladium tepperianum</i> (Sacc.) McAlp. (Rust).